United Nations A/C.3/65/L.29

General Assembly

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Sixty-fifth session

Third Committee

Agenda item 68 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Chile, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Slovakia, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Reaffirming the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Council resolution 8/3 of 18 June 2008,[3]

Welcoming the universal ratification of the Geneva Conventions of 12 August 1949,[4] which alongside human rights law provide an important framework of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. III, sect. A.

[4] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

Please recycle

Mindful of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights and of the Human Rights Council on the subject,

Noting with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

Acknowledging that international human rights law and international humanitarian law are complementary and mutually reinforcing,

Noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

Acknowledging that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court,[5] and recalling in this regard that each individual State has the responsibility to protect its populations from such crimes as set out in General Assembly resolutions 60/1 of 16 September 2005 and 63/308 of 14 September 2009,

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of human rights, particularly the right to life,

1. *Strongly condemns once again* all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;[6]

4. *Calls upon* Governments and invites intergovernmental and non-governmental organizations to pay greater attention to the work of national level commissions of inquiry into extrajudicial, summary or arbitrary executions with a view to ensuring the effective contribution of these commissions to accountability and to combating impunity;

5. *Calls upon* all States, in order to prevent extrajudicial, summary and arbitrary executions, to comply with their obligations under relevant provisions of international human rights instruments, and further calls upon those States which

[5] Ibid., vol. 2187, No. 38544.

[6] Economic and Social Council resolution 1989/65, annex.

have not abolished the death penalty to pay particular regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights[2] and articles 37 and 40 of the Convention on the Rights of the Child,[7] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and taking into account the recommendations of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;

6. *Urges* all States:

(a) To take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials[8] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[9]

(b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities, killings of persons affected by terrorism, hostage taking or foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person's right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

7. *Affirms* the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

8. *Urges* all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their

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[7] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[8] Resolution 34/169, annex.

[9] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners[10] and, where applicable, to the Geneva Conventions of 12 August 1949[4] and the Additional Protocols thereto, of 8 June 1977[11] in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

9. *Also urges* States to prevent and, where such situations exist, to end prisoner control of prisons, bearing in mind that such situations do not exempt the State from its human rights obligations, including the protection against extrajudicial, summary or arbitrary executions;

10. *Welcomes* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, taking note of the growing awareness of the Court worldwide, calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, and further welcomes the fact that one hundred and thirteen States have already ratified or acceded to and one hundred and thirty-nine States have signed the Rome Statute of the Court,[5] and calls upon all those States that have not ratified or acceded to the Rome Statute to give serious consideration to doing so;

11. *Acknowledges* the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, and urges States to intensify efforts to establish and implement effective witness protection programmes or other measures, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools designed to encourage and facilitate greater attention to the protection of witnesses;

12. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the High Commissioner to support endeavours to that end;

13. *Expresses its concern* over the occurrence of vigilante killings around the globe, encourages States, in order to support efforts to prevent and end such killings, to undertake or facilitate systematic studies of the phenomenon, with a view to taking context-specific and focused action, including necessary legislative, judicial, administrative, educative and other measures, and requests the Office of the High Commissioner and other relevant United Nations entities, upon request, to support such studies and their follow-up;

14. *Takes note* of the potential of new technologies in the prevention and investigation of extrajudicial, summary or arbitrary executions, encourages the Office of the High Commissioner to convene, within existing resources, a consultation of

[10] *Human Rights: A Compilation of International Instruments*, Volume I (First Part): *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

[11] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

information and communications technology experts, humanitarian and human rights actors with experience in using new technologies, relevant private actors and Member States to discuss the current and potential human rights applications of new technologies and the risks and obstacles to their effective use, and invites the Office of the High Commissioner to prepare a report on the outcome of the consultation, in the form of a summary of discussions;

15. *Takes note with appreciation* of the reports of the Special Rapporteur to the General Assembly;[12]

16. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

17. *Acknowledges* the important role of the Special Rapporteur in identifying cases where extrajudicial, summary and arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges him to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

18. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

19. *Urges* all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

20. *Expresses its appreciation* to those States that have received the Special Rapporteur and asks them to examine his recommendations carefully, invites them to inform him of the actions taken on those recommendations, and requests other States to cooperate in a similar way;

21. *Again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

22. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

23. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner

[12] See A/64/187 and A/65/321.

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Third Committee

Agenda item 68 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Brazil, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and Uruguay: revised draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Reaffirming the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Council resolution 8/3 of 18 June 2008,[3]

Welcoming the universal ratification of the Geneva Conventions of 12 August 1949,[4] which alongside human rights law provide an important framework of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. III, sect. A.

[4] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

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Mindful of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights and of the Human Rights Council on the subject,

Noting with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

Acknowledging that international human rights law and international humanitarian law are complementary and mutually reinforcing,

Noting with deep concern the growing number of civilians and persons hors de combat killed in situations of armed conflict and internal strife,

Acknowledging that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court,[5] and recalling in this regard that each individual State has the responsibility to protect its populations from such crimes as set out in General Assembly resolutions 60/1 of 16 September 2005 and 63/308 of 14 September 2009,

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of human rights or a negative impact on the enjoyment of human rights, particularly the right to life,

1. *Strongly condemns once again* all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;[6]

4. *Calls upon* Governments and invites intergovernmental and non-governmental organizations to pay greater attention to the work of national level commissions of inquiry into extrajudicial, summary or arbitrary executions with a view to ensuring the effective contribution of these commissions to accountability and to combating impunity;

5. *Calls upon* all States, in order to prevent extrajudicial, summary and arbitrary executions, to comply with their obligations under relevant provisions of

[5] Ibid., vol. 2187, No. 38544.

[6] Economic and Social Council resolution 1989/65, annex.

international human rights instruments, and further calls upon States which retain the death penalty to pay particular regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights[2] and articles 37 and 40 of the Convention on the Rights of the Child,[7] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and taking into account the recommendations of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;

6. *Urges* all States:

(a) To take all measures required by international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials[8] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[9]

(b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities, killings of persons affected by terrorism or hostage-taking or living under foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person's right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

7. *Affirms* the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

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[7] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[8] Resolution 34/169, annex.

[9] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

8. *Urges* all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners[10] and, where applicable, to the Geneva Conventions of 12 August 1949[4] and the Additional Protocols thereto, of 8 June 1977[11] in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

9. *Also urges* States to prevent and, where such situations exist, to end prisoner control of prisons, bearing in mind the obligation of the State to protect human rights, including the protection against extrajudicial, summary or arbitrary executions;

10. *Welcomes* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, taking note of the growing awareness of the Court worldwide, calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, and further welcomes the fact that one hundred and fourteen States have already ratified or acceded to and one hundred and thirty-nine States have signed the Rome Statute of the Court,[5] and calls upon all those States that have not ratified or acceded to the Rome Statute to give serious consideration to doing so;

11. *Acknowledges* the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, and urges States to intensify efforts to establish and implement effective witness protection programmes or other measures, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools designed to encourage and facilitate greater attention to the protection of witnesses;

12. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the High Commissioner to support endeavours to that end;

13. *Expresses its concern* over the occurrence of vigilante killings around the globe, encourages States, in order to support efforts to prevent and end such killings, to undertake or facilitate systematic studies of the phenomenon, with a view to taking context-specific measures and focused action, and requests the Office of the High Commissioner and other relevant United Nations entities, upon request, to support such studies and their follow-up;

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[10] *Human Rights: A Compilation of International Instruments*, Volume I (First Part): *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

[11] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

14. *Takes note* of the potential of new technologies in the prevention and investigation of extrajudicial, summary or arbitrary executions, encourages the Office of the High Commissioner to consider convening, within existing resources, an expert consultation to discuss the current and potential human rights applications of new technologies and the risks and obstacles to their effective use, open to the participation of Governments, regional organizations, relevant United Nations bodies, civil society organizations and other relevant stakeholders, and invites the Office of the High Commissioner to report on the outcome of the consultation, in the form of a summary of discussions, to the Human Rights Council;

15. *Takes note* of the reports of the Special Rapporteur to the General Assembly;[12]

16. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

17. *Acknowledges* the important role of the Special Rapporteur in identifying cases where extrajudicial, summary or arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges him to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

18. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

19. *Urges* all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

20. *Expresses its appreciation* to those States that have received the Special Rapporteur and asks them to examine his recommendations carefully, invites them to inform him of the actions taken on those recommendations, and requests other States to cooperate in a similar way;

21. *Again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

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[12] See A/64/187 and A/65/321.

22. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

23. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of human rights, such as extrajudicial, summary or arbitrary executions;

24. *Requests* the Special Rapporteur to submit to the General Assembly at its sixty-sixth and sixty-seventh sessions a report on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat this phenomenon;

25. *Decides* to continue its consideration of the question at its sixty-seventh session.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Argentina, Austria, Azerbaijan, Belgium, Brazil, Canada, Chile, Costa Rica, Croatia, Cyprus, Denmark, Ecuador, Estonia, Finland, France, Gabon, Germany, Greece, Grenada, Guatemala, Haiti, Hungary, Israel, Italy, Liechtenstein, Luxembourg, Mexico, Morocco, Nicaragua, Poland, Portugal, Romania, Slovakia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

International Convention for the Protection of All Persons from Enforced Disappearance

The General Assembly,

Reaffirming its resolution 61/177, of 20 December 2006, by which it adopted and opened for signature, ratification and accession the International Convention for the Protection of All Persons from Enforced Disappearance,

Recalling resolution 47/133, of 18 December 1992, by which it adopted the Declaration on the Protection of All Persons from Enforced Disappearances as a body of principles for all States,

Recalling also its resolution 64/167 of 18 December 2009, as well as relevant resolutions adopted by the Human Rights Council, including resolution 14/10 of 18 June 2010,[1] which took note of the report of the Working Group on Enforced or Involuntary Disappearances[2] and the recommendations contained therein,

Deeply concerned, in particular, by the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the

[1] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53* (A/65/53), chap. II, sect. A.

[2] A/HRC/13/31 and Corr.1.

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growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Recalling that the Convention sets out the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and the results of the investigation and the fate of the disappeared person, and sets forth State party obligations to take appropriate measures in this regard,

Acknowledging that acts of enforced disappearance are recognized in the Convention as crimes against humanity, in certain circumstances,

Acknowledging the valuable work of the International Committee of the Red Cross in promoting compliance with international humanitarian law in this field,

Recognizing that the entry into force of the Convention, as soon as possible, through its ratification by twenty States, and its implementation, will be a significant contribution to end impunity and to the promotion and protection of all human rights for all,

Welcoming the fact that, in recent years, 30 August has been observed in many countries around the world as International Day of the Victims of Enforced Disappearances,

1. *Welcomes* the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance;

2. *Also welcomes* the fact that eighty-six States have signed the Convention and nineteen have ratified or acceded to it, and calls upon States that have not yet done so to consider signing, ratifying or acceding to the Convention as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances;

3. *Further welcomes* the report of the Secretary-General on the International Convention for the Protection of All Persons from Enforced Disappearance;[3]

4. *Decides* to declare 30 August International Day of the Victims of Enforced Disappearances, to be observed beginning in 2011, and calls upon Member States, the United Nations system and other international and regional organizations, as well as the civil society, to observe this Day;

5. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to continue with their intensive efforts to assist States to become parties to the Convention, with a view to achieving universal adherence;

6. *Requests* United Nations agencies and organizations, and invites intergovernmental, non-governmental organizations and the Working Group on Enforced or Involuntary Disappearances to continue undertaking efforts to disseminate information on the Convention, to promote its understanding, to prepare for its entry into force and to assist States parties in implementing their obligations under this instrument;

7. *Requests* the Secretary-General to submit to the General Assembly, at its sixty-sixth session, a report on the status of the Convention and the implementation of the present resolution.

[3] A/65/257.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Argentina, Austria, Azerbaijan, Bangladesh, Belarus, Benin, Cameroon, Canada, Croatia, Cyprus, Ecuador, Egypt, Finland, Gabon, Georgia, Germany, Greece, Haiti, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Libyan Arab Jamahiriya, Luxembourg, Niger, Nigeria, Pakistan, Peru, Republic of Moldova, Saudi Arabia, Slovenia, Spain, Tajikistan, the former Yugoslav Republic of Macedonia, United States of America and Uzbekistan: draft resolution

Missing persons

The General Assembly,

Guided by the purposes, principles and provisions of the Charter of the United Nations,

Guided also by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949[1] and the Additional Protocols thereto, of 1977,[2] as well as international standards of human rights, in particular the Universal Declaration of Human Rights,[3] the International Covenant on Economic, Social and Cultural Rights,[4] the International Covenant on Civil and Political Rights,[4] the Convention on the Elimination of All Forms of Discrimination against Women,[5] the Convention on the Rights of the Child[6] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[7]

[1] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[2] Ibid., vol. 1125, Nos. 17512 and 17513.
[3] Resolution 217 A (III).
[4] See resolution 2200 A (XXI), annex.
[5] United Nations, *Treaty Series*, vol. 1249, No. 20378.
[6] Ibid., vol. 1577, No. 27531.
[7] A/CONF.157/24 (Part I), chap. III.

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Taking duly into account the International Convention for the Protection of All Persons from Enforced Disappearance, adopted on 20 December 2006 by the General Assembly in its resolution 61/177,

Recalling all previous relevant resolutions on missing persons adopted by the General Assembly, as well as the resolutions and decisions adopted by the Commission on Human Rights and the Human Rights Council,

Noting with deep concern that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

Noting that the issue of persons reported missing in connection with international or non-international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts and inflicts grievous suffering on the families of missing persons, and stressing in this regard the need to address the issue, inter alia, from a humanitarian and rule of law perspective,

Considering that the problem of missing persons may raise questions of international humanitarian law and international human rights law, as appropriate,

Stressing the importance of ending impunity for violations of international humanitarian law and international human rights law with respect to missing persons,

Being cognizant that States that are parties to an armed conflict have a responsibility for countering the phenomenon of missing persons, taking all appropriate measures to prevent persons from going missing, determining the fate of missing persons and recognizing their accountability as regards implementing the relevant mechanisms, policies and laws,

Bearing in mind the effective search for and identification of missing persons using forensic sciences, and recognizing that great technological progress has been achieved in this field, including DNA forensic analysis, which can significantly assist efforts to identify missing persons and investigate violations of international humanitarian law and human rights law,

Recalling the Agenda for Humanitarian Action, in particular its general objective 1, to "respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families", adopted at the twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, and resolution 3 entitled "Reaffirmation and implementation of international humanitarian law: preserving human life and dignity in armed conflict", adopted at the thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007,

Taking note of the panel discussion on the question of missing persons held at the ninth session of the Human Rights Council,[8]

Taking note also of the progress report of the Human Rights Council Advisory Committee on best practices on the issue of missing persons[9] and of the request of

[8] A/HRC/10/10.

[9] A/HRC/14/42.

the Human Rights Council to its Advisory Committee to finalize the study on best practices and to submit it to the Council at its sixteenth session,[10]

Taking note with appreciation of the report of the Secretary-General of 12 August 2010 on missing persons, prepared pursuant to General Assembly resolution 63/183 of 18 December 2008,[11]

Taking note with appreciation also of the ongoing international and regional efforts to address the question of missing persons and of the initiatives undertaken by international and regional organizations in this field,

1. *Urges* States to strictly observe and respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949[1] and, where applicable, in the Additional Protocols thereto, of 1977;[2]

2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict, account for persons reported missing as a result of such a situation and ensure the effective investigation and prosecution of offences linked to missing persons, consistent with their international obligations;

3. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

4. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

5. *Calls upon* States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate;

6. *Recognizes*, in this regard, the need for the collection, protection and management of data on missing persons according to international and national legal norms and standards, and urges States to cooperate with each other and with other concerned actors working in this area, inter alia, by providing all relevant and appropriate information related to missing persons;

7. *Requests* States to pay the utmost attention to cases of children reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children and to reunite them with their families;

8. *Invites* States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all such legal and practical measures and coordination mechanisms as may be necessary, based on humanitarian considerations only;

9. *Urges* States that are parties to an armed conflict to cooperate, consistent with their international obligations, in order to effectively solve cases of missing persons, including by providing mutual assistance in terms of information-sharing,

[10] A/HRC/DEC/14/118.
[11] A/65/285.

victim assistance, location and identification of missing persons and the recovery, identification and return of human remains;

10. *Urges* States, and encourages intergovernmental and non-governmental organizations, to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance, as requested by the concerned States, and welcomes in this regard the establishment and efforts of commissions and working groups on missing persons;

11. *Calls upon* States, without prejudice to their efforts to determine the fate of persons missing in connection with armed conflicts, to take appropriate steps with regard to the legal situation of missing persons and the needs of their family members, in fields such as social welfare, financial matters, family law and property rights;

12. *Stresses* the need to address the issue of missing persons as a part of peace and peacebuilding processes, with reference to all justice and rule of law mechanisms, including the judiciary, parliamentary commissions and truth-finding mechanisms, on the basis of transparency, accountability and public involvement and participation;

13. *Invites* relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the General Assembly;

14. *Requests* the Secretary-General to submit a comprehensive report on the implementation of the present resolution, including relevant recommendations, to the Human Rights Council at its relevant session and to the General Assembly at its sixty-seventh session;

15. *Also requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

16. *Decides* to consider the question at its sixty-seventh session.

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Agenda item 68 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Serbia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Elimination of all forms of intolerance and of discrimination based on religion or belief

The General Assembly,

Recalling its resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[1]

Recalling also article 18 of the International Covenant on Civil and Political Rights,[2] article 18 of the Universal Declaration of Human Rights[3] and other relevant human rights provisions,

Recalling further its previous resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief, including resolution 64/164 of 18 December 2009 and Human Rights Council resolution 14/11 of 18 June 2010,[4]

Recognizing the important work carried out by the Human Rights Committee in providing guidance with respect to the scope of the freedom of religion or belief,

[1] See resolution 36/55.
[2] See resolution 2200 A (XXI), annex.
[3] Resolution 217 A (III).
[4] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53* (A/65/53), chap. III, sect. A.

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Considering that religion or belief, for those who profess either, is one of the fundamental elements in their conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Reaffirming that everyone has the right to freedom of thought, conscience and religion or belief, which includes the freedom to have or not to have, or to adopt a religion or belief of one's own choice, or to change one's religion or belief, and the freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance,

Deeply concerned at continuing acts of intolerance and violence based on religion or belief against individuals and members of religious communities and religious minorities across the world and at the limited progress that has been made in the elimination of all forms of intolerance and of discrimination based on religion or belief, and believing that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience and religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as at the Durban Review Conference,

Concerned that acts of violence, or credible threats of violence, against persons belonging to religious communities and religious minorities are sometimes tolerated or encouraged by official authorities,

Expressing deep concern at all forms of discrimination and intolerance, including prejudices against persons and derogatory stereotyping of persons, based on religion or belief,

Concerned at the increasing number of laws and regulations that limit the freedom of thought, conscience, religion or belief, at the implementation of existing laws in a discriminatory manner and at the lack of anti-discrimination legislation in many countries,

Convinced of the need to address the rise in various parts of the world of religious extremism that affects the rights of individuals, the situations of violence and discrimination that affect many women and other individuals on the grounds or in the name of religion or belief or in accordance with cultural and traditional practices, and the misuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations,

Seriously concerned at all attacks on religious places, sites and shrines in violation of international law, in particular human rights and humanitarian law, including any deliberate destruction of relics and monuments,

Emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance and respect for religious and cultural diversity and in the universal promotion and protection of human rights, including freedom of religion or belief,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of, and its respect for, diversity, including with regard to religious expression, and underlining also the fact that education, in

particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

1. *Condemns* all forms of intolerance and of discrimination based on religion or belief, as well as violations of freedom of thought, conscience and religion or belief;

2. *Stresses* that the right to freedom of thought, conscience and religion or belief applies equally to all persons, regardless of their religions or beliefs, and without any discrimination as to their equal protection by the law;

3. *Emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest one's religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, are non-discriminatory and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion or belief;

4. *Also emphasizes* that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing, and stresses further the role these rights can play in the fight against all forms of intolerance and of discrimination based on religion or belief;

5. *Recognizes with deep concern* the overall rise in instances of intolerance and violence, including by non-State actors, directed against members of many religious and other communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

6. *Condemns* any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual or electronic media or any other means;

7. *Expresses* concern over the persistence of institutionalized social intolerance and discrimination practised against many on the grounds of religion or belief, and emphasizes that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one's religion or belief, and that such procedures, when legally required at the national or local level, should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practise their religion or belief, either individually or in community with others and in public or private;

8. *Recognizes with concern* the situation of persons in vulnerable situations, including persons deprived of their liberty, refugees, asylum-seekers and internally displaced persons, children, persons belonging to national or ethnic, religious and linguistic minorities and migrants, as regards their ability to freely exercise their right to freedom of religion or belief;

9. *Emphasizes* that States have an obligation to exercise due diligence to prevent, investigate and punish acts of violence against persons belonging to religious minorities, regardless of the perpetrator, and that failure to do so may constitute a human rights violation;

10. *Also emphasizes* that no religion should be equated with terrorism, as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned;

11. *Urges* States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of access to justice and effective remedies for persons whose right to freedom of thought, conscience, religion or belief, or the right to freely practise their religion, including the right to change their religion or belief, is violated;

(b) To ensure that existing legislation is not implemented in a discriminatory way and that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights;

(c) To end violations of the human rights of women and to devote particular attention to abolishing practices and legislation that discriminate against women, including in the exercise of their right to freedom of thought, conscience and religion or belief;

(d) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits, and to ensure that everyone has the right and the opportunity to have access, on general terms of equality, to public services in their country, without any discrimination on the basis of religion or belief;

(e) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all persons to manifest their religion or belief, either alone or in community with others and in public or private;

(f) To ensure that no official documents are withheld from the individual on the grounds of religion or belief and that everyone has the right to refrain from disclosing information concerning their religious affiliation in such documents against their will;

(g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes, and the right of all persons to seek, receive and impart information and ideas in these areas;

(h) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and symbols are fully respected and protected in a non-discriminatory way, and to take additional measures in cases where they are vulnerable to desecration and destruction and to bring to justice individuals responsible for committing acts of desecration or destruction;

(i) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided;

(k) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world, and to reflect on such incidents with a view to formulating effective measures to promote respect for freedom of religion or belief;

(l) To promote, through the educational system and other means, mutual understanding, tolerance, non-discrimination and respect in all matters relating to freedom of religion or belief by encouraging, in the society at large, a wider knowledge of different religions and beliefs and of the history, traditions, languages and cultures of the various religious minorities existing within their jurisdiction;

(m) To prevent any distinction, exclusion, restriction or preference based on religion or belief that impairs the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis, and to detect signs of intolerance that may lead to discrimination based on religion or belief;

12. *Stresses* the importance of a continued and strengthened dialogue in all its forms, including among and within religions or beliefs, and with broader participation, including of women, to promote greater tolerance, respect and mutual understanding, and welcomes different initiatives in this regard, including the Alliance of Civilizations initiative and the programmes led by the United Nations Educational, Scientific and Cultural Organization;

13. *Welcomes and encourages* the continuing efforts of all actors in society, including non-governmental organizations and bodies and groups based on religion or belief, to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[1] and further encourages their work in promoting freedom of religion or belief, in highlighting cases of religious intolerance, discrimination and persecution and in promoting religious tolerance;

14. *Recommends* that States, the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, in as many different languages as possible, and promote its implementation;

15. *Welcomes* the work and the interim report of the Special Rapporteur on freedom of religion or belief;[5]

[5] See A/65/207.

16. *Urges* all Governments to cooperate fully with the Special Rapporteur, to respond favourably to his requests to visit their countries and to provide all necessary information and follow-up for the effective fulfilment of his mandate;

17. *Requests* the Secretary-General to ensure that the Special Rapporteur receives the resources necessary to fully discharge his mandate;

18. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-sixth session;

19. *Decides* to consider the question of the elimination of all forms of religious intolerance at its sixty-sixth session under the item entitled "Promotion and protection of human rights".